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STATE OF CALIFORNIA

CALIFORNIA INTEGRATED WASTE MANAGEMENT BOARD

In the Matter of: BERNARDO BELTRAN, OWNER & OPERATOR d/b/a: B & J TIRES & WHEELS, INC. a/k/a: B & J TIRES RESPONDENT.	ADMINISTRATIVE DECISION FOR ADMINISTRATIVE PENALTIES ORDER SETTING LIABILITY Agency No: 2005-010918-AC

The California Integrated Waste Management Board ("CIWMB") served an Administrative Complaint and Request for Hearing form on BERNARDO BELTRAN, (RESPONDENT), on September 15, 2005. RESPONDENT failed to file a Request for Hearing within fifteen days of service of the Administrative Complaint pursuant to Government Code 11505 (a). The matter shall be determined as a default pursuant to Government Code section 11520. The CIWMB takes action against RESPONDENT based upon evidence and affidavits that may be used without any notice to RESPONDENT.

FACTUAL FINDINGS

1. The Administrative Complaint was executed by WENDY BRECKON, Staff Counsel, CIWMB, acting in her official capacity.

2. BERNARDO BELTRAN, Owner and Operator of B & J TIRES & WHEELS, INC. d/b/a B & J TIRES, is responsible for the transportation of waste tires by a person not holding a valid Waste Tire Hauler Registration from the CIWMB.

3. On January 2, 1996, RESPONDENT first became registered as a Waste Tire Hauler with the CIWMB. The hauler registration number issued to him was 177, and effective July 1, 2003 became TPID No. 1000902. RESPONDENT has renewed annually since the initial registration date with the exception of 1997 and 1998.

4. In October 2004, the CIWMB Waste Tire Hauler Registration and Manifest Program sent the 2005 renewal notification to RESPONDENT to notify him that he needed to renew his registration for the 2005 calendar year.

5. Pursuant to 14 California Code of Regulations (CCR) 18455(b), all waste tire hauler registrations expire annually on January 1st.

6. On January 14, 2005, the CIWMB Waste Tire Hauler Registration and Manifest Program cancelled RESPONDENT for failing to renew the waste tire hauler registration for the 2005 calendar year. On January 14, 2005, a cancellation letter was sent to RESPONDENT at his mailing address of 870 Commercial Street, San Jose, CA 95112 advising him of this cancellation.

7. On February 15, 2005, staff of the CIWMB Waste Tire Hauler Registration and Manifest Program contacted RESPONDENT to inform him not to haul waste tires until such time as he renewed his application for waste tire hauler registration for the 2005 calendar year. To date, the CIWMB has not received a valid Waste Tire Hauler application from RESPONDENT to re-activate the CIWMB Waste Tire Hauler Registration.

8. RESPONDENT continued to haul waste and used tires on twenty-four (24) occasions after the waste tire hauler registration expired.

9. RESPONDENT falsely represented that B & J Tires was currently registered with the CIWMB by using false decal numbers indicating a 2005 decal number in the hauler portion of the manifest. Decals 04-02095 and 04-2098 were assigned to B & J Tires in 2004. B & J Tires used decal number 05-02095 and 05-02098 to respresent that

he was registered in 2005, when in fact he was not registered.

LEGAL CONCLUSIONS

10. BERNARDO BELTRAN, Owner and Operator of B & J TIRES & WHEELS, INC. d/b/a B & J TIRES is in violation of Public Resources Code (PRC), section 42951, which makes it unlawful, on or after January 1, 1995, to engage in the transportation of nine (9) or more waste tires unless holding a valid Waste Tire Hauler Registration, unless exempted as specified in PRC section 42954.

11. The CIWMB's authority to assess administrative penalties against BERNARDO BELTRAN d/b/a B & J TIRES & WHEELS, INC. as a waste tire hauler, is set forth in PRC section 42962 (c) and in Title 14 of the California Code of Regulations, section 18464.

12. Pursuant to 14 California Code of Regulations section 18465, the requested penalty of $59,500.00 (Fifty-nine thousand, five hundred dollars) is within CIWMB's discretion.

13. No evidence of mitigation, extenuation or rehabilitation is offered.

ORDER

Good cause appearing, Complainant's motion to take action in accordance with the provisions of Public Resources Code 42851, subdivision (b) and Government Code Section 11520, subdivision (a) is granted.

THE FOLLOWING ORDER is hereby made:

RESPONDENT, BERNARDO BELTRAN, is ordered to pay an administrative penalty of $59,500.00 (Fifty-nine thousand, five hundred dollars) to the California Integrated Waste Management Board within 30 (thirty) days of the date of this decision.

This DECISION shall become effective 10/25/05.

Dated: 10/25/05

ROSARIO MARIN
Chair
California Integrated Waste Management Board